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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

New York, N.Y.

4 v.

15 Cr. 333 (LTS)

5 JOSHUA AARON,

6 Defendant.

7 -----x

8 December 15, 2016

9 11:10 a.m.

10 Before:

11 HON. LAURA TAYLOR SWAIN,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
17 Southern District of New York

18 BY: EUN YOUNG CHOI

19 NOAH D. SOLOWIEJCZYK

20 Assistant United States Attorneys

21 BRAFMAN & ASSOCIATES, P.C.

22 Attorney for Defendant

23 BY: BENJAMIN BRAFMAN

24 JACOB KAPLAN

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(Case called)

MS. CHOI: Good morning, your Honor. Eun Young Choi and Noah Solowiejczyk for the government. With us at counsel table is Special Agent Jonathan Luca with the FBI.

AGENT LUCA: Good morning, your Honor.

MS. CHOI: And special Agent, Christopher Rasor with the United States Secret Service.

AGENT RASOR: Good morning.

THE COURT: Good morning, Ms. Choi; Mr. Solowiejczyk.

MR. SOLOWIEJCZYK: Solowiejczyk, your Honor.

THE COURT: Solowiejczyk. I will work on that.

MR. SOLOWIEJCZYK: That was a good effort.

THE COURT: Special Agent Luca and April Special Agent Rasor.

MR. BRAFMAN: Good morning, your Honor. Benjamin Brafman and Jacob Kaplan for Mr. Aaron who is present.

THE COURT: Good morning, Mr. Brafman, Mr. Aaron, and Mr. Kaplan. Please, be seated.

Ms. Choi -- Mr. Brafman, did you want to give me the status?

MR. BRAFMAN: Yes, I would like that very much, your Honor. Thank you.

Your Honor, we understand that the case that Mr. Aaron is involved in has been adjourned to February 2nd at 11:00 a.m., and we would request that we be adjourned to that date as

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1 well and we are prepared to waive speedy trial issues from this
2 date until that date.

3 I just want to indicate to the Court that Mr. Aaron
4 was arraigned yesterday before Magistrate Judge Francis, he
5 entered a plea of not guilty, and we waived a bail application
6 at that time and we are waiving a bail application today but
7 are reserving our right to revisit the issue at some point in
8 the future.

9 I just want to indicate for the Court that for the
10 past several months Mr. Aaron and his counsel have been working
11 very diligently trying to get him back here. He turned down an
12 offer of asylum in Russia, he waived his extradition, and with
13 the assistant of the government -- and I thank them for this --
14 were ultimately able to get him released and he flew back -- I
15 think -- yesterday, and we are here today. So, it is his first
16 appearance but there will be a time when we intend to revisit
17 is the issue of bail, hopefully if we can on consent, and if
18 not then we will alert your Honor well in advance of the
19 application so that the Court isn't surprised by it.

20 THE COURT: Thank you.

21 MR. BRAFMAN: You are welcome, your Honor.

22 THE COURT: I appreciate all of that and all of that
23 information.

24 Mr. Choi, what arrangements have you in place for
25 discovery?

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1 MS. CHOI: Yes, your Honor.

2 I have spoken with defense counsel. As I think I have
3 represented to the Court previously at court conferences,
4 discovery in this case is voluminous, it involves many
5 terabytes of data. We will ask defense counsel for hard
6 drives, as is the normal course, in order to produce that
7 evidence to him for his review. We can get that process
8 started relatively quickly and I think we will be in a good
9 spot by February with regard to that.

10 THE COURT: And what are the arrangements for allowing
11 Mr. Aaron to see discovery in the facility?

12 MS. CHOI: Your Honor, generally speaking, we can work
13 that out with defense counsel or the facility directly. In
14 certain cases they request that they have the capacity to
15 review, in which case we can produce a hard drive to the MDC
16 which is where I think he is presently for his review, but we
17 will work that out with defense counsel. If there are any
18 issues I think we can resolve them without the Court's
19 intervention.

20 THE COURT: All right. That's always welcome.

21 Is there anything further that the government believes
22 I should know at this point?

23 MS. CHOI: No, your Honor.

24 I think we will reserve any further comment about
25 this. If the Court has any questions, obviously we can answer

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1 them, but if there is a future bail application we will
2 evaluate that when defense counsel brings it to our attention
3 and if can he can't resolve it between the two of us, we will
4 take it to the Court.

5 THE COURT: So, just to confirm, am I correct in
6 understanding that Mr. Aaron was arraigned as well as presented
7 yesterday?

8 MS. CHOI: Correct, your Honor.

9 MR. BRAFMAN: That's correct, your Honor.

10 THE COURT: Very good, then.

11 And so we already have I think in place, a speedy
12 trial exclusion to February 2nd, but for completeness, since
13 Mr. Aaron is in this case now, is there request for exclusion?

14 MS. CHOI: Yes, your Honor. I believe that's right.
15 Under 18 U.S.C. 3161, because he is presently joined with his
16 co-defendants time is already excluded. But, just to complete
17 the loop and in an abundance of caution, the government would
18 ask for an exclusion of time between now and February 2nd in
19 order to allow the government to begin production of discovery
20 to the defense, for the defense to begin its review, and for
21 there to be any preliminary talks with regard to resolution of
22 this case.

23 MR. BRAFMAN: Your Honor, that would be on consent.

24 THE COURT: Very well.

25 The application, on consent, is granted. I find that

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1 the ends of justice served by the granting of an exclusion from
2 speedy trial computations for the period from today's date
3 through February 2nd, 2017, weigh the best interests of the
4 public and the defendant in a speedy trial for the reasons
5 summarized by Ms. Choi. Accordingly, the time period is
6 excluded prospectively.

7 Is there anything else that we should take up together
8 this morning?

9 MS. CHOI: Not from the government, your Honor. Thank
10 you.

11 MR. BRAFMAN: Not from defense, your Honor. Thank you
12 very much.

13 THE COURT: Keep well, everyone, and I will look
14 forward to seeing you in February.

15 MR. BRAFMAN: Happy holidays, your Honor.

16 THE COURT: Happy holidays.

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